

allowing our small businesses to take advantage of the leverage they could gain by joining larger groups.

The very simple principle behind this legislation, behind the Enzi bill, is to allow small businesses around this country and their employees to be part of a larger group, thereby driving down the cost of their insurance premiums.

Mr. DURBIN. Will the Senator yield for a question?

Mr. THUNE. I will not yield at the moment. We have a few minutes left on our time, and then the Senator from Illinois could use his time to speak.

Mr. DURBIN. Will the Senator yield for a question?

Mr. THUNE. Not at the moment. Thank you, though.

What I would simply say is, the bill offered by the Senator from Illinois and by his colleagues on the other side is, again, legislation that comes at a high cost to the taxpayers: \$73 billion over a 10-year period.

So it is important, when we have this debate, that the people in this country who are following the debate have a clear understanding of what the differences are between the approaches that are being offered—the Enzi bill, the bill that is under consideration today, the small business health plans bill, and the bill offered by our colleagues on the other side—the differences in terms of their approach, one being a Government approach, one being a market-based approach, one actually being scored by the Congressional Budget Office as achieving savings for the Federal taxpayer, and one that clearly adds to the costs of the taxpayer by about \$73 billion over a 10-year period.

This has been dubbed Health Week because we are debating health care legislation. Small business health plans is one component of that. We also tried, Monday, to get a vote on legislation that would allow for reforms in our medical malpractice system that would, hopefully, again, drive down the cost of covering people in this country. The high cost of medical malpractice insurance is driving OB/GYNs and other specialists and providers out of the profession, driving up the cost of health care in this country.

In fact, the Department of Health and Human Services, a couple years ago, did a study that suggested the cost of defensive medicine and the cost of the medical malpractice system we have in the country today is actually costing the taxpayers, under Medicaid, an additional \$22.5 billion a year.

It is important we address these issues. I believe the American people want us to act. More importantly, they want us at least to vote. That is all I am simply saying. For those on the other side who have consistently resisted the enactment of these two pieces of legislation, that is fine. I understand that is part of this process, that we have a very open and free-flowing debate. That is part of the Senate. That is part of our democratic process we have here.

But when all is said and done, let's bring this to a vote so the people of this country, who expect action out of the Senate, at least know where their elected folks stand when it comes to the issue of small business and whether we are going to provide health care for the employees of small businesses across this country and whether we are going to do anything to address what I think is a very important economic issue to a majority of Americans; that is, this ever-rising, increasing cost of health care.

These two pieces of legislation—small business health care plans, S. 1955, offered by Senator ENZI, the chairman of the HELP Committee—and it is a bipartisan bill; it also has Democratic support, although not enough to stop a filibuster—and the medical malpractice reform legislation, which, again, there were two pieces of medical malpractice reform legislation voted on Monday—we were not able to get enough votes to stop a filibuster to invoke cloture—but, there again, I believe both pieces of legislation have majority support in the Senate and, clearly, have majority support in the House of Representatives.

They have already passed there repeatedly. Small businesses health plans have passed eight times in the House of Representatives. Medical malpractice reform has passed five times in the House of Representatives. That legislation has come to the floor of the Senate and has been blocked from receiving an up-and-down vote.

I think it is in the best interest of people across this country who are expecting Congress to act on the issue of health care and the high cost of health care. They want us to come up with solutions that respect and are in the best interest of the American taxpayer. I believe these two pieces of legislation accomplish that objective.

So I hope before this Health Week is over—and even if we have to push this into next week—we at least get a vote on the floor of the Senate that will enable us to take final action on a couple of pieces of legislation that have been lingering around here for way too long and deserve action by the Senate.

With that, Mr. President, I yield back the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

#### HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY ACT OF 2006

The PRESIDING OFFICER. The Senate will proceed to the consideration of S. 1955, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1955) to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace.

The Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute.

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1955

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the "Health Insurance Marketplace Modernization and Affordability Act of 2005".]

[(b) TABLE OF CONTENTS.—The table of contents is as follows:

[Sec. 1. Short title and table of contents.]

#### [TITLE I—SMALL BUSINESS HEALTH PLANS]

[Sec. 101. Rules governing small business health plans.]

[Sec. 102. Cooperation between Federal and State authorities.]

[Sec. 103. Effective date and transitional and other rules.]

#### [TITLE II—NEAR-TERM MARKET RELIEF]

[Sec. 201. Near-term market relief.]

#### [TITLE III—HARMONIZATION OF HEALTH INSURANCE LAWS]

[Sec. 301. Health Insurance Regulatory Harmonization.]

#### [TITLE I—SMALL BUSINESS HEALTH PLANS]

#### [SEC. 101. RULES GOVERNING SMALL BUSINESS HEALTH PLANS.]

[(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

#### ["PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS]

#### ["SEC. 801. SMALL BUSINESS HEALTH PLANS.]

["(a) IN GENERAL.—For purposes of this part, the term 'small business health plan' means a fully insured group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).]

["(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

["(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue